

AMENDED IN SENATE SEPTEMBER 3, 2009

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 30, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 773

Introduced by Assembly Member Lieu

February 26, 2009

An act to ~~add Section 1424.6 to~~ *amend Section 1429 of* the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 773, as amended, Lieu. Health facilities: citations: notifications.

Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, the State Department of Public Health administers various requirements pertaining to long-term health care facilities. Violation of these provisions is punishable by various classes of administrative citations with corresponding administrative penalties.

~~This bill would require, within 30 days of the issuance of a class "AA" or class "A" violation citation, that the cited facility send written notification to all current residents and patients and to the primary contacts listed in the admission agreement of each resident and patient, as specified. If the facility fails to send the notifications, the bill would allow the department to assess an administrative penalty of \$1,000 per day for each day following the end of the 30-day notification period,~~

but would require the department to waive the administrative penalty if the facility can demonstrate that it mailed written notification to the residents and patients and to the primary contacts listed in the admission contract of each resident and patient, as specified.

Existing law contains posting and retention requirements applicable to facilities receiving class “AA,” class “A,” and class “B” violations.

The bill would revise requirements relating to the posting and retention by a facility of citations for class “AA” and class “A” violations. It would provide that violation of these class “AA,” class “A,” and class “B” posting and retention requirements would constitute a class “B” violation, subject to a specified civil penalty, and would require the civil penalty to be deposited into the existing State Health Facilities Citation Penalties Account.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1429 of the Health and Safety Code is
2 amended to read:

3 1429. (a) Each class “AA” and class “A” citation specified in
4 subdivisions (b) and (c) of Section 1424 that is issued ~~pursuant to~~
5 ~~this section and that has become final~~, or a copy or copies thereof,
6 shall be prominently posted, ~~as prescribed in regulations issued~~
7 ~~by the director, until the violation is corrected to the satisfaction~~
8 ~~of the state department up to a maximum of for~~ 120 days. The
9 citation or copy shall be posted in a place or places in plain view
10 of the patients or residents in the long-term health care facility,
11 persons visiting those patients or residents, and persons who inquire
12 about placement in the facility.

13 (1) *The citation shall be posted in at least the following locations*
14 *in the facility:*

15 (A) *An area accessible and visible to members of the public.*

16 (B) *An area used for employee breaks.*

17 (C) *An area used by residents for communal functions, such as*
18 *dining, resident council meetings, or activities.*

19 (2) *The citation, along with a cover sheet, shall be posted on a*
20 *white or light-colored sheet of paper, at least 8½ by 11 inches in*
21 *size, that includes all of the following information:*

1 (A) *The full name of the facility, in a clear and easily readable*
2 *font in at least 28-point type.*

3 (B) *The full address of the facility, in a clear and easily readable*
4 *font in at least 20-point type.*

5 (C) *Whether the citation is class “AA” or class “A.”*

6 (3) *The facility may post the plan of correction.*

7 (4) *The facility may post a statement disputing the citation or*
8 *a statement showing the appeal status, or both.*

9 (5) *The facility may remove and discontinue the posting required*
10 *by this section if the citation is withdrawn or dismissed by the*
11 *department, or is dismissed as a result of a citation review*
12 *conference.*

13 (b) Each class “B” citation specified in subdivision (d) of Section
14 1424 that is issued pursuant to this section and that has become
15 final, or a copy or copies thereof, shall be retained by the licensee
16 at the facility cited until the violation is corrected to the satisfaction
17 of the department. Each citation shall be made promptly available
18 by the licensee for inspection or examination by any member of
19 the public who so requests. In addition, every licensee shall post
20 in a place or places in plain view of the patient or resident in the
21 long-term health care facility, persons visiting those patients or
22 residents, and persons who inquire about placement in the facility,
23 a prominent notice informing those persons that copies of all final
24 uncorrected citations issued by the department to the facility will
25 be made promptly available by the licensee for inspection by any
26 person who so requests.

27 (c) *A violation of this section shall constitute a class “B”*
28 *violation, and shall be subject to a civil penalty in the amount of*
29 *one thousand dollars (\$1,000), as provided in subdivision (e) of*
30 *Section 1424. Notwithstanding Section 1290, a violation of this*
31 *section shall not constitute a crime. Fines imposed pursuant to*
32 *this section shall be deposited into the State Health Facilities*
33 *Citation Penalties Account, created pursuant to Section 1417.2.*

34 SECTION 1. ~~Section 1424.6 is added to the Health and Safety~~
35 ~~Code, to read:~~

36 ~~1424.6. (a) Within 30 days of the issuance of a citation for a~~
37 ~~class “AA” or class “A” violation pursuant to Section 1424 or~~
38 ~~1424.5, the cited facility shall send written notification to all current~~
39 ~~residents and patients and to the primary contacts listed in the~~
40 ~~admission agreement of each resident and patient. The notice shall~~

1 ~~disclose the violation for which the citation was issued, the date~~
2 ~~of the citation, and a telephone number or Internet Web site address~~
3 ~~for the department where more information on the citation may~~
4 ~~be accessed. If the facility is appealing the citation, the notice may~~
5 ~~also include that fact.~~

6 ~~(b) If the facility fails to send the notifications pursuant to this~~
7 ~~section, the department may assess an administrative penalty of~~
8 ~~one thousand dollars (\$1,000) for each day following the end of~~
9 ~~the 30-day period. The department shall waive a penalty imposed~~
10 ~~pursuant to this section if the facility can demonstrate that it has~~
11 ~~mailed written notification to all current residents and patients and~~
12 ~~to the primary contacts listed in the admission contract of each~~
13 ~~resident and patient. The department shall accept a copy of the~~
14 ~~written notice and a copy of the list of individuals and mailing~~
15 ~~addresses to whom the facility sent the notification as satisfactory~~
16 ~~evidence that the facility provided the required written notification.~~